



Feb 18, 2014

National Response Team Chairman
Ms. Dana Tulis
U.S. EPA Office of Emergency Management
Ariel Rios Building (5104A)
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Washington, DC 20460
202-564-8600

Dear Ms. Tulis and all concerned,

As per our conference call on January 14th, 2014, I am sending you a summary of the key efficacy documentation for Oil Spill Eater II, per your request. (Attached as: *Efficacy Documentation Summary*) This material has been sent previously on many occasions to EPA officials in which you were copied, including Craig Matthiessen, Nick Nichols, Sam Coleman, Al Venosa, Craig Carroll and RRT members.

All in all, OSE II has been through an enormous vetting process and it now appears this is being done again as part of our request to use OSE II to clean up the Gulf of Mexico. Why more vetting when documentation and field use results already exists?

I would like to make it very clear that our providing this information does not take the place of, nor should it be a reason to delay a complete response to our original Oct 23rd FOIA request. (The email thread is attached/below for the record.)

While I and a number of qualified scientists and oil spill response professionals have donated thousands of hours of in-kind time to this search for better oil spill response solutions, I do pay taxes and expect the

EPA and responsible agencies to engage in scientific due diligence to find non-toxic remedies for oil spill response. I would also expect that if legitimate information was presented that seemed to be a promising solution (OSE II--which gave great *hope* for fully remediating the Gulf of Mexico per more than a dozen qualified reviewing scientists during that disaster who confirmed OSE II had merit and should be usedⁱ), that this would be welcomed by the NRT.

Instead, NRT, RRT responses to submissions and usage requests and even responsible party requests to use OSE II have been obstructed and argued, using out of date and inaccurate NRT guidance documents (particularly, the May 2000 Bioremediation Fact Sheet) resulting in blocking effective cleanup efforts as was done during the BP spill. We find this behavior odd because even the EPA has employed this bioremediation agent to clean up spills to very good results.ⁱⁱ Our work in vetting *NCP Product Schedule* listed products during the BP spill turned up OSE II as a non-toxic replacement for chemical dispersants and we believe its efficacy and toxicity documentation, as well as observable results in actual field use, are more than adequate.

We question how it could be that toxic chemical dispersant pre authorization status is still in place in most coastal Regions while denying the same designation to an effective, non-toxic remedy. Chemical dispersant pre authorization should be suspended immediately based on clearly questionable results in the Gulf of Mexico, insufficient toxicity studies, and due to known and observable harm done to marine and other living organisms. Both Corexit 9500 and 9527-a specifically state in their own MSDS sheets “*Do not contaminate surface waters [with Corexit]*”. That the NRT continues to endorse and defend *pre authorization* of these chemicals despite science-based doubt on efficacy is not a defensible position. The Deepwater Horizon clean up legacy should trigger an aggressive attempt to find something to replace these chemicals, not more *point/counter point*, time-intensive debates over technicalities such as was done with the RRT VII tests on OSE II. One can’t argue the end point of these tests which were a significant remediation of heavy oil per that documentation. Claimed anomalies in the tests should have been reconciled by those conducting the tests, and if some of the information was deemed not scientifically valid, than they should have immediately re-done the tests properly. It, otherwise, becomes a gross misuse of public funds.

Rather than trying to show how OSE II *doesn't work*, (which can't be done at this point because of its worldwide efficacy from actual field applications and the fact it is officially registered/approved in 17 countries) but which appears to be the effort/agenda of NRT and EPA, why not look at how it *has worked*? Compared to chemical dispersants, it has a track record of absolutely surpassing the dispersant record. We believe OSE II, or agents like it, would solve all the problems that dispersants apparently seek to solve and more; yet your people are still trying to defend and expand pre authorization of toxic chemical dispersants—Alaska is a current blatant effort in that regard. Why?

EPA/NRT/NOAA/Coast Guard could be heroes if they found a non-toxic replacement for dispersants. Coast Guard personnel have repeatedly told us that they feel forced into having these chemicals in their tool kits “because there isn't anything else”. Working on more *rulemaking* won't end up in finding better solutions for oil spills.

Ms. Tulis, I would like you, please, to review the attached summary and documentation with an optimistic view vs. pessimistic pre-determined ideas. Once that is done, if there are scientific questions, we would like an opportunity to address them, without interference from people we consider are industry influenced, mis-educated and biased.

But outside of that, most important to us is that I am reiterating our original request:

“We further are requesting an actual response to LAEO's formal request to Craig Matthiessen and yourself that asks for a correction to be made in the NRT Bioremediation Fact Sheet which is out of date by 13 years. That inaccurate fact sheet has been used to deny every OSC and RP request to use OSE II on US waters repeatedly over many years despite ample contrary science provided.

In summary, what LAEO cares about is cleaning up the waters. We want a final decision that either:

- a. Permits the use of OSE II to help clean up the Gulf of Mexico and countless other extant spills on U.S. navigable waters which still need to be cleaned up, or
- b. If not approved to use OSE II as a First Response methodology for U.S. Navigable Waters (OSE II is already used throughout the US on land based/soil and other hydrocarbon based spills, used by the US Military for years to successfully and economically remove hydrocarbon based spills from the

environment in accordance with the Clean Water Act, etc.) that you provide us with an EXACT listing of reasons detailing why you will not permit OSE II to be used on U.S. waters. Our review of the history of this NCP Listed product indicates years of thorough and successful removal of hydrocarbon based spills from the environment, including effective use on ocean spills in other countries with ample EPA testing and science that supports its use for cleaning up the mess left behind in the Gulf of Mexico, Alaska, Enbridge etc. We want all documentation, correspondence that relates to your decision not to permit its use on U.S. waters, why such a decision was made and who exactly made these decisions. Your response must also include what *science* a ‘no’ decision is based on and any other reasoning.

In other words, we want a final decision that is a “Yes” or “No” with exact reasons given.”

As a final note, if the EPA, Coast Guard, NOAA or any other agency has documentation contrary to what we view as unquestionable OSE II efficacy information included herein, this should be released and made public. Otherwise, any disapproval of OSE II requested for use in all applicable environments or any internal directives from any NRT member agency disapproving its use has no scientific basis for disapproval and would be unlawful.

We appreciate your attention to this matter.

Sincerely Yours,

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ⁱ Governor Jindal’s fast track review committee consisting of qualified scientists and oil spill response professionals/consultants, headed by Prof. Dean Mallory of Lafayette University reviewed OSE II along with DEQ teams in Mississippi, Alabama and Florida.

ⁱⁱ Osage Indian Reservation Cleanup an example of EPA involvement in using OSE II on US Navigable Waters--- records which should be available in your archives.